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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/872,401 | 06/01/2001 | Tuan Nguyen | 2001 P 09906 US | 2647 |

7590 04/14/2006
Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

PHAN, THAI Q

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2128

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/872,401 | Applicant(s) NGUYEN ET AL. | |
| | Examiner Thai Phan | Art Unit 2128 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9-12,14-20 and 22-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-3,5-7,9-12,14-20 and 22-24 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Applicants' Appeal dated 1/26/2006 (the "Appeal Brief").

In view of the Appeal Brief, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

2. To avoid abandonment of the application, appellant must exercise one of the following two options:

(a) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(b) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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2. Claims 1-3, 5-7, 9-12, 14-20, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Spira et al, US patent application publication no. 2003/0172002.

As per claim 1, Spira anticipates a method and system for building a plant operation and providing services to the plant model with feature limitations very identical to the claimed invention. According to Spira, the method includes steps

Identifying a solution for the customer/client's assembly plant through consultation service, plant operation, etc [134-137],

Modeling the plant in a computer system in real time or operating conditions for performance analysis and simulation ([0031], [0052], [106], [112], [115], [129], for example),

Defining performance matrix or data for service model and process simulation,

Prioritizing the solution on service demand,

Analyzing cost or benefit of the model for plant production, service consultation, business operation, etc to the customer or ownership ([112-114], [116], [158], [162], [252-310], for example). The whole modeling process takes place within an appropriate time or available time window [0031] to provide support to the local services, business demand, cost analysis, business review, and others related to customer's needs and desires [110-116], [124], [157], for example. In other word, Spira takes time factor and minimizes the process modeling time as short as possible into consideration for modeling and analyzing a plant service, business consultation, planning an assembly production line.

As per claim 2, Spira considers business data flow model in the modeling process, which would cover material flow, real time process operations, etc.

As per claim 3, Spira anticipates a performance analysis model including model simulation as claimed ([301-330], for example).

As per claims 5-7 and 9, Spira provides proposed solutions including cost information, maintenance, demanding schedule, etc.

As per claim 10, Spira anticipates a method and system for building a plant operation and providing services to the plant model with feature limitations very identical to the claimed invention. According to Spira, the method includes steps

Identifying a solution for the customer/client's assembly plant or process requirements for consultation service, plant operation, etc [134-137],

Modeling the plant in a computer system in real time or operating conditions for performance analysis and simulation ([0031], [0052], [106], [112], [115], [129], for example),

Defining performance matrix or data for service model and process simulation,
Prioritizing the solution on service demand,

Analyzing cost or benefit of the model for plant production, service consultation, business operation, etc to the customer or ownership ([112-114], [116], [158], [162], [252-310], for example).

As per claims 11-12, Spira anticipates data flow model, process flow and maintenance model as claimed for manufacture material flow.

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As per claims 14-17, Spira anticipates plant machine data or plant information for process assembly, software tools for modeling and cost analysis, operating parameters, ownership model, etc.

As per claim 18, due to the similarity of claim 18 to the rejected claims above, and Spira anticipates a method and system for building a plant operation and providing services to the plant model with feature limitations very identical to the claimed invention. According to Spira, the method includes steps

Identifying a solution for the customer/client's assembly plant or process requirements for consultation service, plant operation, etc [134-137],

Modeling the plant in a computer system in real time or operating conditions for performance analysis and simulation ([0031], [0052], [106], [112], [115], [129], for example),

Defining performance matrix or data for service model and process simulation,

Prioritizing the solution on service demand,

Analyzing cost or benefit of the model for plant production, service consultation, business operation, etc to the customer or ownership ([112-114], [116], [158], [162], [252-310], for example). Spira also provides the entire modeling process is within a time window or time frame as claimed to meet user's demand.

As per claims 19-20 and 22-24, the claims are directed to subject matter as in the rejected claims as above. Claims 19-20 and 22-24 are also rejected in like manner.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-7, 9-12, 14-20, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 1. US patent no. 6,161,101, issued to Guinta et al, on Dec. 2000
 2. US patent no. 6,810,401, issued to Thompson et al, on Oct. 2004
 3. US patent application publication no. US 2006/0059253, issued to Goodman et al, on Mar. 2006
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thai Phan whose telephone number is 571-272-3783. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on 571-272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Apr. 10, 2006


Thai Phan
Patent Examiner